

Objection to the Drawing

The drawing was objected to as containing excessive text, under 37 CFR 1.84(o). Applicant respectfully disagrees with the objection. Nevertheless, a substitute drawing is attached hereto, thus the objection is overcome.

Applicant received the Notice To File Missing Parts, mailed September 24, 2001. On November 6, 2001, Applicant filed a Reply to the Notice, including the required Declaration under 37 CFR 1.63. Applicant did not include a substitute drawing because 1) the drawing was, in fact, filed with the original application and, therefore, was not missing, and 2) the originally filed drawing was, in fact, in compliance with 37 CFR 1.84(o).

37 CFR 1.84(o) states that:

"Suitable descriptive legends may be used subject to approval by the Office, or may be required by the examiner where necessary for understanding of the drawing. They should contain as few words as possible."

While the drawing, as originally filed, does contain text, the text is not excessive and that the drawing contains as few words as possible. Further the drawing cannot be considered "missing" since it was filed as part of the original application. Thus, it is respectfully submitted that the Notice of Incomplete Reply, dated September 24, 2001, is improper, and that Applicant's Petition Fee of \$720 should be refunded.

MPEP 608.02 states at page 600-91 that:

"An objection will generally only be made to an informal drawing if the Office is unable to reproduce the drawing or the contents of the drawing are unacceptable to the examiner."

In the present case, the drawing can easily be reproduced. In fact, Applicant reproduced the drawing for the purpose of this filing. Further, the drawing is not unacceptable to the Examiner; in fact, the present application has not even been assigned to an examiner. It is

therefore respectfully submitted that the Notice of Incomplete Reply, dated September 24, 2001, is improper, and that Applicant's Petition Fee of \$720 should be refunded.

Nevertheless, a substitute drawing is attached hereto, thus the objection is overcome.

It should be noted that the substitute drawing includes Fig. 1 and Fig. 2. Fig. 1 of the substitute drawing is identical to that filed originally. This is because Fig. 1 constitutes a flow chart, which by definition must contain text. None of the text can be deleted from Fig. 1, otherwise the flow chart would convey no information. It should be further noted that 37 CFR 1.81(b) states that:

"Drawings may include illustrations which facilitate an understanding of the invention (for example, **flow sheets in cases of processes**, and diagrammatic views." (Emphasis added.)

The present application discloses a process and, therefore, the flow sheet of Fig. 1 is acceptable under the current rules of practice.

Fig. 2 is amended to remove all text therefrom. It is respectfully submitted that the objection to the drawing is thus overcome. Reconsideration and withdrawal of the objection to the drawing are respectfully requested.

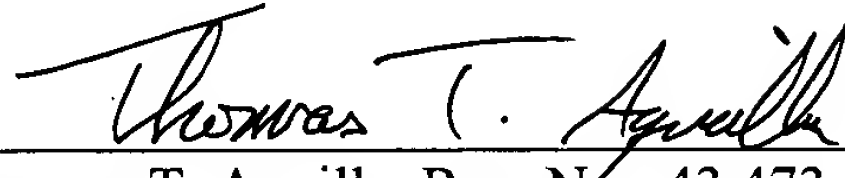
Conclusion

Applicant believes that the claims are patentable over the prior art, and that this case is now in condition for allowance of all claims therein. Such action is thus respectfully requested. If the Examiner disagrees, or believes for any other reason that direct contact with Applicant's attorney would advance the prosecution of the case to finality, he is invited to telephone the undersigned at the number given below.

"Recognizing that Internet communications are not secured, I hereby authorize the PTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."

Respectfully Submitted:

--DiTullio et al. --

By: 
Thomas T. Aquilla, Reg. No.: 43,473
Attorney for Applicant

BROWN & MICHAELS, P.C.
400 M&T Bank Building - 118 N. Tioga St.
Ithaca, NY 14850
(607) 256-2000 • (607) 256-3628 (fax)
e-mail: aquilla@bpmlegal.com
Dated: March 22, 2002